

DHRM BULLETIN

Effective Date: December 9, 1996 **Reference:** UCA 67-19-15(1)
UCA 67-19-15(1)(d)(r)

UCA 67-19-17
R477-7-7(1)(a)
R477-7-8(1)(a)
R477-11-2(1)

SUBJECT: Severance Pay for Schedule AB, AD
& AR Employees

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Human Resource Management Rules R477-7-7(1)a) and R477-7-8(1)a) provide severance pay to career service exempt employees in Schedule AD, AR and AB positions. These rules mandate severance pay equal to one (1) week of pay for each year of continuous state service in the executive branch unless the employee is discharged for cause or voluntarily separates or retires from state service. The purpose of this bulletin is to clarify the terminology used in these rules and when severance pay is not required.

The executive director or commissioner may discharge a career service exempt employee after providing written notification to the employee specifying the reasons for the dismissal and the effective date of the discharge. If the reason for the dismissal is either misfeasance, malfeasance, or nonfeasance, the affected employee is not eligible for the severance pay. These terms are defined as follows:

Misfeasance - Performance of a lawful action in an illegal or improper manner.
Malfeasance - Intentional wrongdoing; deliberate violation of law or standards; mismanagement of responsibilities.
Nonfeasance - Omission or failure to do what ought to be done.

The actual determination of whether or not an employee is charged with misfeasance, malfeasance or nonfeasance is determined by the executive director or commissioner. These terms should not be used unless your agency has been advised by the Attorney General that there is a legal basis for using them.

Please also be advised that an employee discharged for cause is not eligible for reappointment. The Utah Code Annotated 67-19-17 provides specific appointment opportunities to any career service employee accepting an appointment to an exempt position. However, the statute mandates that an employee discharged for cause is not eligible for the reappointment opportunities or placement on the reappointment register.

Employees discharged by the executive director or commissioner due to misfeasance, malfeasance or nonfeasance shall not be eligible for the severance pay. Further, employees voluntarily separating from state service or retiring are not eligible for severance pay.

JAM:csm

APPROVAL: _____

DATE: _____